

Winter 1980

The Brief (The Winter 1980 Alumni Magazine)

Southern Methodist University, School of Law

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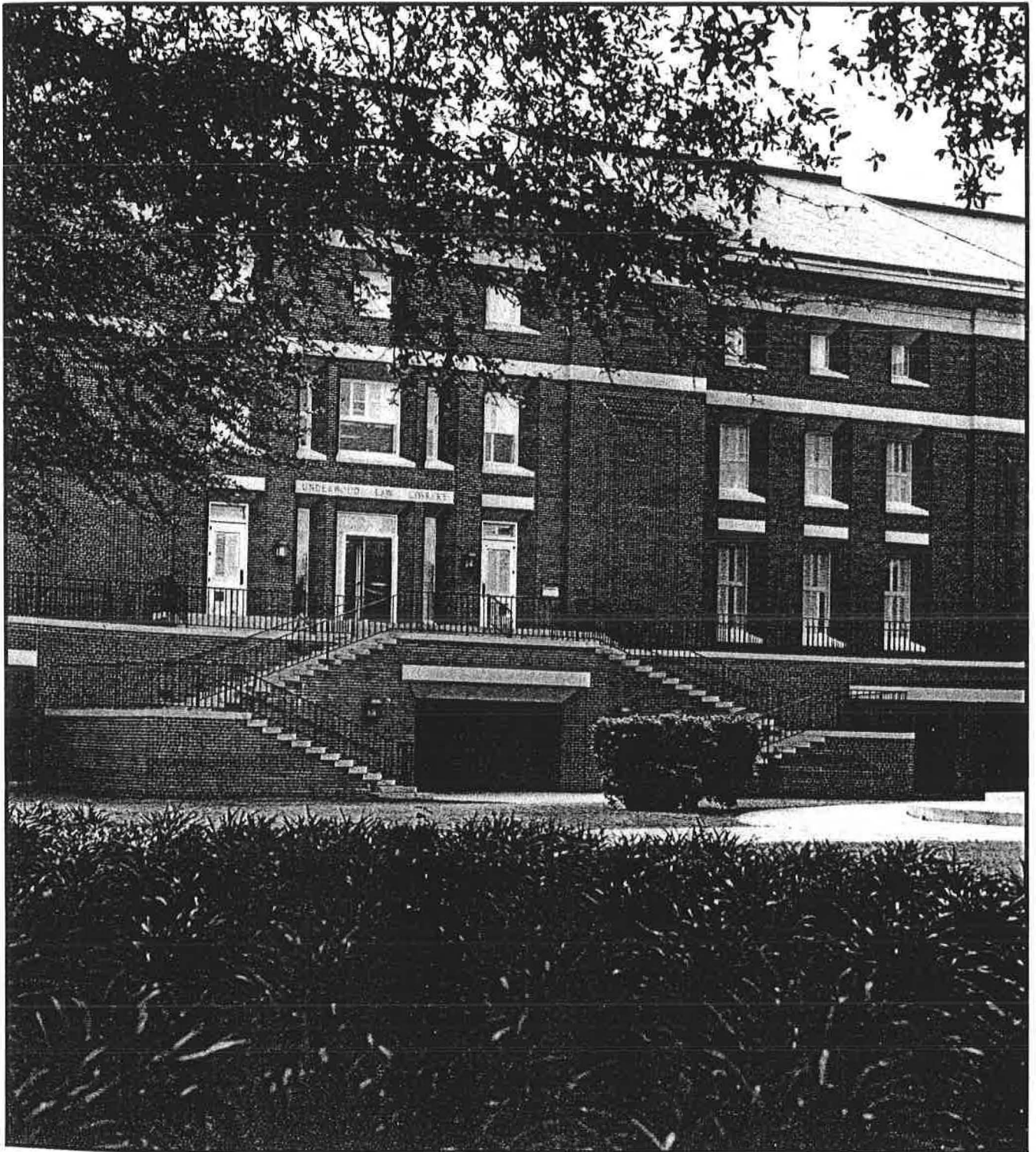
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the brief

OF THE SCHOOL OF LAW

VOL. 13 NO. 1

SOUTHERN METHODIST UNIVERSITY



WINTER, 1980

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**SOUTHERN METHODIST UNIVERSITY
SCHOOL OF LAW**

WINTER, 19

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President, Law Alumni Association 79-80

Edward A. Copley

Dean Ad Interim

A. J. Thomas, Jr.

Assistant Dean

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Director of the Law School Fund

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Notes From The Dean

By
A. J. Thomas, Jr.



Approximately six months have gone by since the last publication of *The Brief*, and I find myself still occupying this position of preeminence, this "hot seat", this complaint department—the deanship of the Law School, albeit on an *ad interim* basis. Some wag on the faculty (there is always one around) stated it is probably the longest "ad interimship" in history. It has been difficult, however, to find a person who fits our bill. After all, some forty out of 168 approved law schools of the nation were without deans and were looking for said types during the academic year 1978-1979. Since that time some spots have been filled, but in the meantime others have become vacant. This seems to tell us something. The office does not seem to be a popular one. Nevertheless, we persevere and the search continues with greater emphasis, energy and zeal. Thus, by the beginning of the next academic year a person should be ensconced in office as your permanent dean.

Since last we spoke to you, a new academic year has begun. The stu-

dent profile as of the beginning of the Fall Semester looked like this: the total number of students registered as of August 30, 1979, was 813; of these 703 were in the Juris Doctor Program while the remaining were working toward the Master of Comparative Law Degree or the Master of Laws Degree. Twenty-two of our graduate students were foreign lawyers. There were 227 women registered in all programs of the Law School and fifteen minorities. The first-year class was composed of 261 students. The mean Law School Aptitude Test was 616 and the mean undergraduate average was 3.36. Applications for study at the SMU Law School continue to rise from 1,252 in 1978-79 to 1,353 in 1979-80.

The Law School faculty has been increased from twenty-six full-time members in 1978-79 to twenty-nine in 1979-80. Authorization has been granted to add an additional member in 1980-81. There are four part-time lecturers for the Fall Semester 1979 and eight Legal Writing Instructors. In speaking of the faculty, two old-timers returned to

the fold this year. Professors Taubenfeld and Charles Morris had been on leave of absence teaching at Temple University and Cornell University, respectively. They are now home again. We welcome them back.

Former Dean Charles O. Galvin is on leave this year teaching in the Fall at Duke University Law School and in the Spring at Pepperdine University Law School.

Law School affairs continue much the same. We believe that we have an excellent institution composed of dedicated faculty and staff and very fine students. Our troubles are those that beset the nation but above all the *bête noire* is inflation. Its impact on all phases of the school, faculty, salaries, library, fuel and maintenance is heartbreaking. But then, I do not need to burden you by relating to you the effects of this demon. You feel it as we do. With the Good Lord's help, we'll all make it.

Come to see us when you are in our vicinity. You are always welcome.

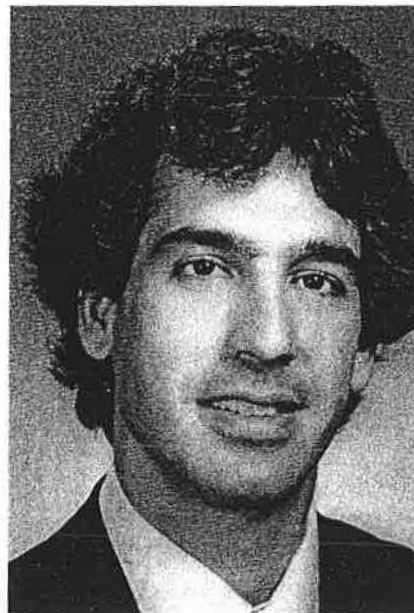
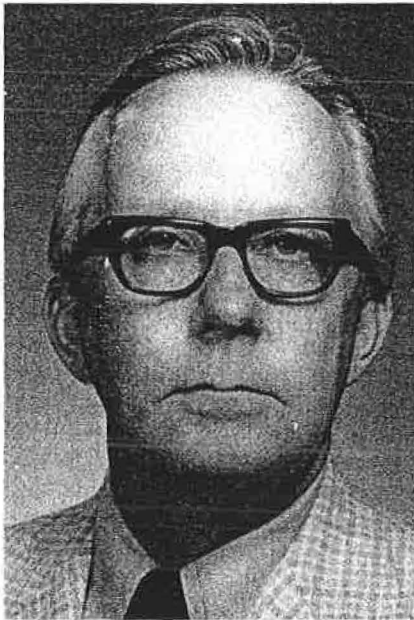
A. J. Thomas, Jr.

New Faculty

The Faculty of the School of Law is pleased to announce the appointments of the following faculty members and lecturers for 1979-80:

Carlos Alvarez—B.A., University of Florida; J.D., Duke University.

Professor Alvarez practiced law with the firm of Mahoney, Hadlow and Adams in Tallahassee, Florida. He is an Assistant Professor of Law and is teaching Property Law I and Environmental Law in the Fall Semester, 1979. He will teach Property II and Regulated Industries during the Spring Semester, 1980.



William L. Crowe—B.A., J.D., Louisiana State University.

Professor Crowe served as Professor of Law at Loyola University School of Law in New Orleans, 1970-1979. He has been in private practice with a former Louisiana governor, has served as a municipal judge in Monroe, Louisiana, and recently was appointed to the Legislative Advisory Committee charged with formulating the implementation of comparative negligence in Louisiana. Professor Crowe is a Visiting Professor of Law and is teaching Torts I and Business Torts in the Fall Semester, 1979, and will teach Torts II and Insurance in the Spring Semester, 1980.

William M. Roberts—B.S., Indiana University; J.D., University of Oklahoma; LL.M., Harvard University.

Professor Roberts served as Associate Professor of Law at Memphis State University, 1975-1979. He also has been an instructor at Indiana University. He has been the Director and Of Counsel for the Memphis Association of Retarded Citizens since 1976, and the Director of the West Tennessee Chapter of the American Civil Liberties Union in 1978. Professor Roberts is a Visiting Associate Professor of Law and is teaching Business Associations I and Income Taxation during the Fall Semester, 1979, and will teach Business Associations II and Corporate Planning during the Spring Semester, 1980.



The Search Goes on . . .

by Cindy Ohlenforst

The Dean Search Committee is still hard at work, although the Committee has not made a choice. The Committee has focused on several candidates who represent some outstanding possibilities. Some of the candidates visited the SMU campus last year; others are scheduled to visit SMU in the coming weeks. Candidates visiting will meet with the Search Committee, faculty, students, and representatives of the central administration. Members of the Committee feel that there are several potentially excellent candidates who have expressed interest in the dean of the Law School.

For those who are unfamiliar with the Dean Search Committee, there are seven members: Dean E. Bonelli of SMU's Meadows School of Art, chairs the Committee; his insight is invaluable, since he has been involved in other committees and been through similar processes himself. The members of the Law School faculty are Associate Dean J. McKnight, and Professors F. Wingo and Earl Borgeson. The Librarian of the Undergraduate Law Library, replaces Professor Peter Winship, who is on leave this year. Representing the student body is Cindy Ohlenforst, the Law School alumni, William D. Powell of the University faculty, Robert Rovey of the SMU School of Business Administration.

The Placement Office at the Law School is always ready to see if there is a need for associates or students' part-time work. Resumes can be sent to the firm, and the firm can set up an interview with students at the School. About two weeks advance notice should be given.

MANAGING METROPLEX GROWTH: THE NEED FOR A COMPREHENSIVE LAND USE PLAN

By Thomas G. Pelham

Professor Pelham teaches land use planning at SMU. He is the author of the book, State Land Use Planning and Regulation, and is currently writing a book on The Comprehensive Land Use Plan.

The Dallas-Fort Worth Metroplex is one of the nation's fastest growing metropolitan areas. Following a staggering increase of 37% during the 1960s, the population of Dallas and Tarrant counties (The Metroplex) has grown at a slower rate in this decade. Nevertheless, during the 1970s, the combined population of the two countries has increased by 18.6%, well in excess of the national average. As of January 1, 1979, the combined estimated population of Dallas and Tarrant Counties was 2,412,400. Along with Houston, its neighboring metropolis to the south, the Metroplex forms the golden buckle of the Sun Belt.

Newspaper headlines proclaim almost daily the very real economic benefits of Metroplex growth. The announcement of each new corporate relocation to the Metroplex is accompanied by the new familiar litany of ripple effects: more business, more jobs, more people, and more income. In sharp contrast to recent signs of a national economic slump, local economic indicators,

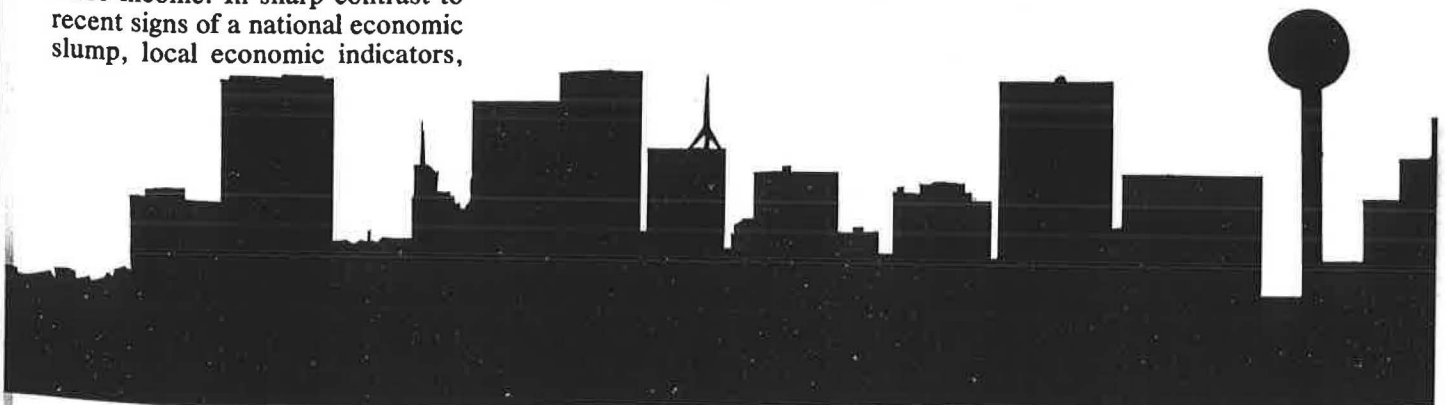
according to recent media reports, continue to reflect a robust economy. In the words of a recent newspaper article, the Metroplex, because of its sustained growth, seems to be recession proof.

Despite the obvious economic benefits of growth, there is a growing public awareness of its negative impacts. In a recent series of articles, the *Dallas Morning News* surveyed the mixed blessings of Metroplex growth. The continuing corporate relocations, new plant construction and expansions, and the accompanying influx of people which fuel the area's economy are also creating serious ground transportation problems, taxing water resources, public facilities and services, and undermining the quality of life that has made the area so attractive. In a recent newspaper interview, Erik Jonsson, a former mayor of Dallas, voiced concern about these developments. Decrying the lack of adequate planning for the area's rapid growth, he expressed the fear that the Metroplex is pursuing random growth which "very often brings problems that are extremely costly and difficult to solve."

A prime example of such prob-

lems is the North Central Expressway. One of two major traffic arteries which facilitated rapid development of North Dallas, North Central has been called the most congested expressway in Texas. It is now wholly inadequate to handle the massive inundation of traffic from North Dallas' large-scale growth and development, much of which was induced by construction of the expressway. Consequently, the Dallas City Council is currently agonizing over several unpopular and expensive alternatives for coping with this problem. Ironically, at the time it is grappling with this problem, the City Council is being asked to rezone a sizable tract of land at the intersection of the Expressway and Northwest Highway to permit two commercial developments, including a large hotel and shopping center. Development of this land, described by a major Metroplex developer as "one of the country's prime commercial sites," is probably both inevitable and desirable. But without careful planning, the proposed developments could have a devastating impact on

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the surrounding residential communities. And even with the most careful planning, any development of this property will probably exacerbate the traffic problem.

How should the constituent municipalities of the Metroplex deal with such problems? No responsible person would advocate adoption of a no-growth policy as the solution to the problems created by rapid urbanization. Nor would any reasonable person urge complete subjugation of economic concerns to purely physical environmental goals. The economic consequences of such policies would be as undesirable as the adverse environmental effects of uncontrolled growth. On the other hand, it is equally irresponsible and unreasonable to pursue growth for its own sake without regard for its impact on the community. While massive unplanned growth may produce short-term benefits for certain private sectors of the community, ultimately it results in substantial social costs that must be borne by the community at large and destroys the environment that originally attracted the growth. In the long run, therefore, no one benefits from unplanned growth. What is needed is a balanced approach to growth—one that facilitates the desired rate, quantity and quality of growth and development but also *manages* it to minimize adverse impacts and to achieve a well-balanced community.

Growth management has been defined as "the utilization by government of a variety of traditional and evolving techniques, tools, plans, and activities to purposefully guide local patterns of land use, including the manner, location, rate, and nature of development." It "consists of a well-integrated, efficient, and affirmative system where choices or decisions are made explicitly and with full knowledge of the variables and trade-offs involved, and where the programs are coordinated in furtherance of clear community growth and land use objectives." Thus, growth

management should not be confused with such terms as "no-growth" or "slow-growth." Rather it is a strategy for achieving, in a rational, business-like manner, any growth policy—more growth, no growth, slow growth, or geographical reallocation of growth—which a municipality decides to adopt.

An effective growth management strategy requires a comprehensive land use plan. In order for a municipi-

"IN THE LONG RUN . . . NO ONE BENEFITS FROM UNPLANNED GROWTH."

ality to make intelligent decisions concerning growth and land development, it must define its goals and objectives concerning such matters as growth, land use, housing, public facilities and buildings, open space, and transportation facilities and formulate public policies for achieving those goals and objectives. These goals, objectives and policies should be adopted in the form of a comprehensive plan which is then implemented through regulatory devices such as zoning and subdivision platting requirements and through financial and capital improvements programming. Administration of the comprehensive land use plan must be subject to a continuous planning process which not only evaluates private development proposals and municipal actions for consistency with the plan but also periodically evaluates and revises the plan to assure its currentness.

Logically, adoption of a comprehensive plan should precede local governmental actions affecting land use. Without a clearly defined set of comprehensive goals

and policies for community growth and development, local officials cannot be expected to make rational land use decisions. Nevertheless until recently, adoption of a separate comprehensive plan has not been a legal prerequisite to exercise of the zoning power or other land use controls in this country.

The 1926 Standard State Zoning Enabling Act (SZA), the model for most state delegations of the zoning power, does not expressly require preparation of a separate comprehensive land use plan. However, the SZA and its state progeny, including the Texas Zoning Enabling Act, require that all zoning "regulations shall be made in accordance with a comprehensive plan." While this language could be construed to require prior adoption of a separate comprehensive plan, most state courts, while frequently emphasizing the necessity for comprehensive planning, have consistently declined to hold that the comprehensive plan must exist separate and apart from the zoning ordinance. Rather, if the zoning ordinance itself reflects a comprehensive plan, the courts usually have held that the statutory "in accordance with" requirement is satisfied. Although courts in a few states have recently held that adoption of a comprehensive plan is a prerequisite to zoning and other regulatory schemes, this position is still a distinct minority rule.

Judicial adoption of a separate comprehensive plan requirement has been impeded by promulgation of the Standard City Planning Enabling Act (SCPEA) and the timing of its adoption by most states. Following the SCPEA promulgation two years after issuance of the SZA, neither mandated adoption of a separate comprehensive plan nor made it legally binding. It only gave municipalities the option to adopt an advisory plan. Second, many states adopted the SZA before the SCPEA. For example, the Texas Zoning Enabling Act was enacted thirty years prior to passage of Texas' permissive local planning enabling legislation. The 1

chronology of state legislative enactment of the zoning and planning enabling legislation has made it difficult for courts to hold that state legislatures, in adopting the SZEAs, intended to require preparation of a separate and legally binding comprehensive plan. Although Texas courts have never addressed directly this issue, presumably they would also find persuasive the order in which the state's zoning and planning enabling acts were adopted.

Despite the reluctance of the judiciary to impose a mandatory planning requirement, a definite national trend toward adoption of a local comprehensive plan as a prerequisite to land use regulation is emerging. Approximately a dozen states, including such Sun Belt growth states as Arizona, California, and Florida, have revised their zoning and planning enabling acts to require all local governments to adopt a comprehensive land use plan with which all local governmental actions affecting land use must be consistent. In general this legislation requires adoption of a comprehensive land use plan, prescribes the various elements of the plan, establishes a continuing planning process for evaluating and updating the plan, and provides that all local actions affecting land use must be consistent with the plan. A major premise of such legislation is that with proper planning and management, the adverse public impacts of growth and development can be anticipated and minimized, if not completely eliminated.

The nature and role of the comprehensive plan envisioned by the new legislation should be carefully noted. First, unlike the traditional static, utopian, map-type master plan, the "new" comprehensive plan is the product of a continuing planning process for implementing general long-term goals and policies through short-term programming. Second, the comprehensive plan is not intended to supplant the free market system nor is it necessarily a vehicle for no-growth or more stringent land use regulation. Rather, it establishes a set of substantive

standards which must be complied with if and when government intervenes to correct free market failures or regulates land use to protect the public interest. Third, the comprehensive plan mandated by the new legislation is not the product of elitist planners. It is a democratic document which combines planning expertise with extensive citizen participation and is subject to numerous public hearings and final approval by the local legislature.

Texas has not yet amended its zoning and planning enabling legislation to require adoption of such a plan. However, the Texas enabling acts permit municipalities to adopt a comprehensive plan, and, in any event, some home rule cities are granted this power by their charters. Confronted with the increasing problems caused by rapid growth, some Texas municipalities are beginning to consider adoption of a comprehensive plan. In Dallas, for example, the adoption of a comprehensive land use plan looms as one of the major issues of the 1980s.

The City of Dallas has ample legal authority to adopt a comprehensive plan. Chapter XV, section 1 of the

*" . . . the new
comprehensive plan
is the product
of a continuing
planning process . . . "*

Dallas City Charter empowers the city council to adopt "a comprehensive plan setting forth in graphic and textual form, policies to govern the future physical development of the city." While it may consist of one or more documents, the plan must cover the entire city and all of its functions and services. After the plan's adoption, the City Charter provides that it "shall serve as a guide to all future council action concerning land use

and development regulations, urban conservation and rehabilitation programs and expenditures for capital improvements."

Dallas has made some progress in preparing a comprehensive plan. Indeed, in 1975 the Dallas City Council actually considered adoption of a comprehensive land use plan prepared by the city department of urban planning. The plan was eventually rejected because, according to some observers, it was prepared too quickly and without sufficient input from important segments of the city. However, in the ensuing years, the Dallas City Council has adopted separate plans for housing, natural open space and thoroughfares which could eventually serve as elements of a comprehensive plan.

Dallas has also demonstrated that planning can work. Several years ago the city established, at least informally, the revitalization of existing housing, stabilization of inner city neighborhoods, and the construction of residential and commercial developments in or near the central business district. To implement these policies, the city took various actions and adopted various programs, including the back zoning of land for single-family use in old East Dallas, the creation of historical preservation districts, the establishment of area redevelopment guaranty programs for residential developments, and the strategic location of new public facilities. The resurgence of the inner city area graphically illustrates that planning can work and that it can be utilized to stimulate as well as restrict growth.

While these planning initiatives represent several steps in the right direction, they fall far short of the comprehensive effort that will be needed to manage growth in the 1980s. Moreover, unlike the problem of the inner city, which was created by insufficient growth and development, some metroplex problems may be solvable only by slowing the rate or decreasing the density of development in a given

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area. It remains to be seen whether Dallas and other Metroplex municipalities will be willing or able to take such action. Unquestionably, government actions to restrict growth are more controversial than plans to stimulate development. Nevertheless, limited actions to restrict growth will be more acceptable to affected landowners and developers if taken pursuant to a comprehensive plan designed to ensure continued growth by managing present growth in an efficient and equitable manner.

A sound comprehensive land use plan cannot be prepared overnight. Because the plan is, in effect, a constitution for land use and development, it should represent a consensus of the community views concerning the future growth and development of a city. Developing a consensus on such fundamental issues takes time. It also requires the creation of a process for soliciting, identifying and evaluating the views of every segment of the community. Consequently, Dallas should move now to establish a process for timely adoption of a comprehensive land use plan and, by example, encourage its neighboring cities to do likewise. Otherwise, it will become increasingly difficult to manage metroplex growth.

James Walsh Establishes Endowment Fund

An endowed scholarship fund has been established in memory of the parents of James L. Walsh, Jr. ('33), whose generous gift was received by the Law School on August 15, 1978. The gift will bear the name, "James L. and Catherine Nolan Walsh Scholarship Fund."

Income from the investment of the funds donated by Mr. Walsh will provide the scholarship in perpetuity.

From The Advocate

The Law School's Weekly Newspaper

Edited by Janice Warder

The SMU Tax Clinic scored victories for client/taxpayers in the first two clinic cases decided by the U. S. Tax Court. In *Freeman v. Commissioner*, the Court agreed with the reasoning of the brief prepared by student Paula Jung, that a taxpayer serving a prison term can be gainfully employed for tax purposes. In *Pevsner v. Commissioner*, the Court found that the manager of a St. Laurent fashion boutique could deduct the cost of clothing she was required to buy for wearing while at work. The Court found the high fashions clearly unsuitable for the taxpayer's simple lifestyle. The briefs for the case were prepared by students Joe Erwin and Judith Swift, and argued orally by Samuel R. Miller, director of the Tax Clinic. . . .

. . . **A crowd** of more than 250 was on hand for the unveiling of former Dean Galvin's portrait in August. The painting, by well-known Dallas artist Edward Bearden, joins the display of portraits of the four previous deans in the foyer of Storey Hall. . . .

. . . **The Center** for Advanced Professional Development sponsored a symposium on federal taxation in late September. The symposium covered federal tax planning, the special problems of the individual taxpayer, and tax planning for business problems. . . .

. . . **Mark Dombroff**, Assistant Director—Aviation, Torts Branch, U. S. Department of Justice, spoke at the Law School in September. His speech was on practical trial organization and developments in evidence techniques. Dombroff's flamboyant speaking style impressed a full room of students and local attorneys. . . .

. . . **Two Law School** organizations, the Student Bar Association and Association of Women Law Students, joined together to begin a new, highly successful program this past Fall titled "Brown Bag Forum." The bi-weekly noon program brings interesting speakers to the school to speak on topics relating to The Law. Speakers have included Texas Land Commissioner Bob Armstrong, Congressman Jim Collins, U. S. District Judge Sarah T. Hughes, and well-known Dallas trial attorneys Robert Fanning, Reagan Martin and Joe McClendon. . . .

. . . **Judge Craig Penfold**, who presides over the 304th Family District Court in Dallas, spoke to Family Law students on juveniles and the law. Penfold's speech was sponsored by Phi Alpha Delta. . . .

. . . **Five films** re-enacting portions of actual civil and criminal trials were shown on consecutive weeks at the Underwood Law Library beginning in early October. The trials depicted in the films raised questions concerning evidence, trial advocacy and criminal law. Professor Fred Moss conducted a discussion following each film. The well-attended screenings were dubbed the "Never on Wednesday Film Festival," after several showing dates were changed because of scheduling conflicts. . . .

. . . **SMU law student** Tom Glenn was elected president of the newly formed Law Student Division of the Texas Bar Association. Under Glenn's leadership, the LSD plans to increase contacts between students and the Bar Association. A membership drive and articles on law schools in the Bar Journal are two of the objectives to be pursued under Glenn's tenure. . . .

. . . **SMU's Trude Tsujimoto** was appointed student liaison between the Law Student Division of the ABA and the ABA Committee on Legislation. Her job includes feeding student input to the Committee, which is a powerful lobbying group in Washington. . . .

... Three English probation officers made a presentation in October at the school on "Can We Reform the Criminal Offender? A Comparison of American and English Attitudes." The three were on a nationwide tour comparing the American parole and probation system with their own. . . .

... The International Law Society has been busy with meetings this semester. During ILS luncheons, Belgian law was discussed, a Brazilian university professor, Antonio de Moura Borges, spoke on civil law in Brazil, and the Iranian situation was debated. Dr. Klaus D. Eberman, noted German economist and cabinet member of the European Community Commission, was the speaker at a meeting sponsored by the ILS and the SMU Political Science Department. Driss Dahak, director of the Moroccan National Institute for Judicial Studies and a member of the Moroccan Supreme Court, spoke to the ILS in November. Dahak, speaking in French, discussed Islamic law and its blending with French law in his country. Professors William Bridge and Jeswald Salacuse interpreted. . . .

... The law students whipped the faculty in a softball game in October. A four-run rally in the Seventh clinched the victory for the students, who basked in a post-game celebration but regretted their win the following Monday.

Medicine, Law Join In Unique Class

While serving as Dean, Professor Galvin sought to facilitate joint educational enterprises between the Law School and the local medical school. As a result of his efforts, the Law School recently received a \$10,000 grant from Medicine in the Public Interest Foundation that matches a grant from another source obtained by the University of Texas Health Science Center at Dallas. By the terms of their respective grants the SMU Law School and the University of Texas Health Science Center are committed to develop a new course for students from both institutions to be team taught by Professor Roark Reed of the Law School and Professor I. C. Stone from the University of Texas Institute of Forensic Sciences.

Supported by the grant, Professor Reed spent the summer preparing materials and reading assignments for the course which will be offered for the first time during the Fall semester, 1980. Approximately one-half of the students will come from the Law School and the other half will come from the Health Science Center. Among the topics to be

covered by the course are: cause of death, investigation into products liability, fingerprints, serology, and neutron activation analysis. The format for the class will be a simulated trial setting in which the facts will require "expert" testimony from the medical students while the law students play the part of lawyers on each side of the law suit. Accompanying each simulation will be lectures by both professors addressing the legal and scientific aspects of the issues involved within the context of that particular law suit. Class assignments are taken from actual cases that have been investigated in recent years by the staff of the Institute of Forensic Sciences at the University of Texas Health Science Center.

The addition of this course to the Law School's curriculum will provide law students with new perspectives about the use and abuse of scientific testimony in the courtroom. Concurrently, the students from the medical profession will gain greater insights into the adversary system and the role of the expert in the courtroom.

Trial Club Holds Meet

The Southern Methodist University School of Law Mock Trial Club began its second year of existence with the Geary, Stahl and Spencer Mock Trial Competition.

The Mock Trial Competition has now become an annual event at the Law School and is open to second or third year students with an interest in improving their litigation techniques. The Club is a student organization; David Mattka is this year's President, and Professor Vincent S. Walkowiak is the sponsor.

The Mock Trial Competition, judged by volunteer members of the bench and bar, provides SMU students with the opportunity to compete in an intra-school competition and thus to display and improve their trial skills. The students are judged on their forensic skills, not on the verdict which the judge believes should be entered as each team must try the case on "evidence" which is given to them to develop. The trial proceeds from opening statement through closing argument. This year's problem concerned criminal law, and each team was expected to prepare to try either side of the case in any round in the single elimination tournament. Sixteen teams consisting of two students each entered this year's competition with the final round judged by Don Metcalfe of Dallas.

In the final round, the team of Stephen Webster and Marshall Gandy defeated Carol Kemp and Jim Hudson. Each of the four finalists received a cash award, which was presented to them at an awards ceremony by LeRoy Street, representing the Geary, Stahl, and Spencer law firm. In addition to the cash awards, the winners of the competition will have their names engraved on a plaque on display at the Law School.

Mock Trial Teams Compete; One Reaches National Finals

For the third consecutive year, the SMU School of Law sent two teams to the regional meeting of the National Mock Trial Competition conducted by the Texas Young Lawyers Association in Austin. The two teams were sponsored by Professor Vincent S. Walkowiak, who was assisted this year by Professor Fred Moss.

More than one hundred schools participated in the seven regional competitions held in January and February of 1979. The top two teams from each region advanced to the National Mock Trial Competition Finals held in Houston in March, 1979.

The purpose of the competition is to encourage training in trial advocacy at the law school level and to

allow students a forum for the exercise of their skills. The competition was begun in 1975 in response to the need for upgrading the teaching of practical trial advocacy skills to America's law students. The competition now involves over 1,000 law students annually who test their skills in a three-hour trial with opening statements, presentation of witnesses, objections to evidence, and closing arguments to the jury. This year's case was a criminal problem involving charges of conspiracy to bribe a public official and harboring a fugitive.

SMU was represented by students David Mattka and Bruce Anton, third year, and William Betts, second year, and Marshall Gandy and Stephen Webster, third year,

and Ronald Mayers, second year. Each year that SMU has sent to the Competition under the sponsorship of Professor Walkowiak, SMU has improved its record. This year was no exception as a team of Mattka, Anton and Betts, representing SMU, and a team from St. Mary's Law School in Saratonia were chosen to represent Region Six in the National Mock Trial Competition Finals by compiling the best records from among the teams at the Regional Competition held in Austin. Teams from eleven law schools in Texas, Oklahoma and Louisiana participated in the Region Six Competition.

Highlights for SMU at the National Finals included a first win over Syracuse, the ev



NATIONAL FINALISTS—Professor Vincent S. Walkowiak presents a plaque to SMU's National Finalist Trial Team of David Mattka, William Betts, and Bruce Anton.

National Champion. This was Syracuse's only loss through the entire competition. Mattka, Anton and Betts also avenged their sole loss at the Regional Competition by soundly defeating St. Mary's team at the National Competition. No team went undefeated in the three-day competition at the national finals. SMU and six other schools accumulated identical three-win, one-loss records through the opening rounds, but SMU failed to qualify for the semi-final round based on total points from the judges' ballots.

This is the first time SMU qualified for the National Finals. This year's fine showing indicates a developing regional and national reputation for SMU in the field of trial advocacy.

Fall Telefund Sets Record

An integral part of each year's Law School Fund Drive is the alumni telefund which accounts for a large portion of funds received in support of the School of Law. This year's recently concluded telefund surpassed all others with 71 alumni callers receiving pledges totaling \$110,000. The great success of this year's telefund is further enhanced by the fact that this was the first year the telefund was conducted in the Fall instead of the Spring of the fund year.

Gene Francis '66, of the Dallas firm of Durant, Mankoff, Davis, Wolens & Francis, Chairman of this year's (1979-80) Law School Fund Drive, had direct responsibility for the telefund. Assistant Dean Coultas commented that "Gene organized a tremendous group of dedicated alumni who worked diligently to insure a successful telefund. Moreover, the fact that this was the first time a Fall telefund was held adds to the significance of the accomplishment."

Each night during the telefund from 10-12 alums met in the Faculty Dining Room in Lawyers Inn and called classmates for pledges to the fund. During the last evening of the telefund, the Barristers conducted follow-up telephoning. Those alums making pledges during the telefund have until May 31, 1980 to fulfill their commitment to the School. Unless the donor designates otherwise, gifts received underwrite student scholarships at the Law School. With tuition at \$4,800 per year, each gift greatly enhances the School's ability to attract and retain excellent law students.



Volunteers call during first night of the Telefund.

SMU SCHOOL OF LAW CENTER FOR ADVANCED PROFESSIONAL DEVELOPMENT

CLE PROGRAM SCHEDULE—SPRING 1980

February 27-29

Symposium on Products Liability

March

Family Law—Beaumont, San Antonio, El Paso

March 27-28

Seventh Biennial Advanced Symposium on Family Law and Community Property

April 21-24

Doing Business in the Caribbean—San Juan, Puerto Rico

(All programs are held in Dallas, Texas unless otherwise noted)

Evening Short Courses—Spring Semester

Tax and Financial Planning for the Professional
Bankruptcy under the New Federal Bankruptcy Act

For registration information please contact the Center for Advanced Professional Development (214) 692-2624.

CLE TRAVELS TO MEXICO

by Nancy Oseasohn

Southern Methodist University School of Law sponsored a symposium held in Mexico City in October. This program, entitled "Doing Business in Mexico," was sponsored by the International Institute on Business Enterprise, a creation of SMU's Center for Advanced Professional Development. It was one of a series of programs put on by the Law School.

Dean Ad Interim A. J. Thomas, who attended the symposium, said, "The Law School has long had an interest in continuing education for lawyers to advance their training. Associate Dean S. Theodore Reiner believed that there was an interest in investment in Mexico, which has always been one of the most important countries to the United States."

The Dean said the program was held in Mexico because all but two of the speakers were from there, and because they could easily secure Mexican government officials to speak, since Mexican law limits the amount of foreign speaking engagements by its officials.

The idea of continuing legal education is not new to the Law School, nor is it a rare phenomenon. Reiner explained, "We have programs going on fairly regularly. They are open to anyone, but they are aimed primarily at lawyers and accountants. We try to roughly complement the strengths of the Law School. We have just created the International Institute on Business Enterprise to distinguish it from other professional programs here, to encourage business people as well as lawyers and accountants, and to make the Law School much more visible to people outside the legal community."

Since the target group of the Law School's continuing education programs is the local Dallas legal and business community, which is

not yet a major center for international transactions, how did the focus of interest turn to Mexico? In the past, SMU was very much involved in Latin America. According to Dean Thomas, Dean Emeritus Robert G. Storey, who came to the Law School in 1947, was very interested in international affairs. He started the Law Institute of the Americas. Under the aegis of this Institute, students from all over the hemisphere were brought to SMU. The result was approximately 60 to 70 Mexican alumni from SMU, (many of whom attended the symposium).

Even though the money sources that fueled SMU's involvement in Mexico in the expansionistic era of the 1950s and 1960s have dried up, SMU's interest has not. Reiner expressed his hopes in this area. "We are trying to reposition SMU in the Latin American area. At one point, SMU was the premier law school in that area. We do not do as much as we used to, so we don't have the influence that we once had. We want to change that. This is saying that we are interested in Mexico and Mexican lawyers," he said.

Former Mexican President Porfirio Diaz is reputed to have said in the Nineteenth Century, "Poor Mexico—so far from God and so close to the United States!" The SMU attitude seems to be "Lucky SMU—so close to Mexico!"

The Law School provided three speakers at the symposium: Dean Thomas, who gave the welcoming speech; Professor Beverly Carl, who spoke on the Foreign Sovereign Immunity Act; and Professor William Streng, who spoke on "Taxation of United States Citizens and Resident Employees in Mexico." Other topics in the program included immigration problems, Mexican taxation, and labor relations. The sessions were open to the public and the press. Workshops were held after the speakers'

presentations and were closed to the press and public to facilitate uninhibited debate.

All of the "SMUers" who went to the program came back with rave reviews. Reiner said, "All the speakers were top notch. There were about 70 or 80 registrants, which was about on target. The feedback from the registrants was favorable, and the papers thus far received are superb."

Professor Carl discussed the American law as it seems to apply to the infamous Mexican oil spill. There were indications of some confusion by Mexican officials and lawyers about applicable American law, particularly the Acts of State Doctrine by which American courts may refuse to adjudicate suits concerning purely public acts of a foreign sovereign that are committed and affected within its territory. Other confusion stemmed from the differences between Mexican law, under which all subsoil mineral rights belong to the government so that some Mexican lawyers view petroleum extraction as a governmental activity, and American law, under which oil drilling is seen as a commercial activity. Carl said, "I would prefer that this dispute be handled through diplomatic channels, rather than judicial ones, by which Mexico could compensate us for the oil damage, and we could compensate them for the salinity damage done to them by our use of the Colorado River."

The symposium will generate a Law School loose-leaf publication which will be updated annually. Reiner with others will edit the first publication. This multi-volume work will include the papers presented at the symposium, Mexican laws in both Spanish and English and articles on some topics not covered in Mexico City, such as bankruptcy and antitrust. The first publication is expected in the Spring of 1980.

SHELL RENEWS TAX CLINIC FUNDING

Two years ago the Law School, using funds from a grant by Shell Oil Company, established the Federal Tax Clinic to provide interested students an opportunity to learn tax practice and procedure first hand. In the seven semesters the clinic has been in existence, 50 students have worked on 471 cases, offering representation to taxpayers who could not otherwise afford it.

In addition to providing an educational opportunity for the students, the clinic also has been an integral part of an Internal Revenue Service test program designed to give the IRS data which may be evaluated to determine if taxpayers who have small amounts in controversy would be better served if they had professional representation.

Recently, the Regional Commissioner for the Southwest Region of the Internal Revenue Service made an extensive evaluation of the clinic and the test program. the IRS concluded:

"Taxpayers are well served by the SMU law students in the Federal Tax Clinic. Students participating in the program are competently representing taxpayers and are diligently seeking to promptly resolve their issues. Student representatives accept cases only when they believe the proposed adjustments are susceptible to further factual development or legal arguments; and if further investigation reveals that the examiner made the correct adjustment, the students generally recommend that the taxpayers accept the auditor's report."

Because the Tax Clinic has been so successful, and because it is a unique experiment between legal education and the United States Internal Revenue Service, the clinic will be funded for an additional two years by a generous grant from the Shell Oil Company. It is the desire of Shell Oil to make possible this

experiment which might ultimately result in enhancing the rights of small taxpayers. The Tax Clinic is now beginning a new two-year phase in cooperation with IRS. The new operating procedures are designed to achieve the following:

1. *Collect data on the nature and scope of potential cases which might be handled by law school tax clinics across the nation, and develop a workable referral system for screening such cases by law school clinics; and*
2. *Collect data on the public's need for legal assistance in federal income tax matters and to assess the potential for filling a portion of this need through law school tax clinics in a manner that is educationally beneficial for the student participants.*

Under the new procedures, the IRS sends notices explaining the services of the clinic to all appropriate taxpayers. The clinic offers those taxpayers free one-hour consultations for the purpose of assist-

ing them in preparing for their conference with a tax auditor. After the audit, the taxpayer is invited to attend a second consultation with a law student. If the taxpayer and the student conclude that the taxpayer's rights have not been fully implemented, then the student undertakes to represent that taxpayer before the Internal Revenue Service and before the Tax Court.

According to Associate Dean for Clinical Education Walter Steele, this program is the only one of its kind in the United States. The program offers an excellent blend between an opportunity to provide practical legal education to the student while rendering a service to the public, and at the same time engaging in research that may well have a national impact on tax policies and procedures.

"Our thanks go to the Shell Oil Company for making all of this possible," Dean Steele said. "I think that it is an interesting commentary on America when we see a major oil company willing to spend substantial sums of money to help a Law School implement the rights of the average American citizen."

Faculty Notes—

Professor Roy R. Anderson spoke on damages under the Uniform Commercial Code to continuing legal education programs at two Oklahoma law schools. He also served as a judge for the Annual Argument of the Conference on Personal Finance Law held during the August ABA meeting in Dallas.

Professor Alan R. Bromberg addressed the annual conference of the North American Securities Administrators Association in October on current developments in the 10b(5) area of the securities act. He is also working with the staff of the Texas State Securities Board on proposed amendments to the state act. Bromberg has been named Chairman of the Partnership Committee of the Corporation Section of the Texas Bar.

Professor William J. Bridge has been selected a member of the ABA Criminal Justice Section Committee on the Rules of Criminal Procedure and Evidence.

Professor Regis W. Campfield, as Chairman of the Committee on Tax Legislation and Regulations: Joint Property, attended an October meeting of the Section on Real Property, Probate and Trust Law of the American Bar Association in Dearborn, Michigan.

Professor Beverly M. Carl lectured at the SMU Symposium in Mexico City on "Doing Business in Mexico" in October. She spoke on "Suing Foreign Governments in United States Courts: The U.S. Foreign Sovereign Immunities Act in Practice."

(continued on page 15)

ALUMNI MILESTONES—

1938

James L. Noel has returned to private practice at the Capital National Bank Building in Houston, after taking full retirement from his U.S. District Court judgeship on February 28, 1979.

1941

Lucian W. Parrish is engaged in law practice and manager of the Rattikin Title Company branch office in Keller, Texas.

1942

John C. Cox, Jr. was elected President of Jones-Cox Mortgage Corporation, a Dallas-based mortgage banking concern operating in the Dallas/Fort Worth Metroplex area and East and West Texas making income property loans for Eastern and Canadian investors.

1947

Henry D. Schlinger was elected Chairman of the Board of Trustees of the Texas Bar Foundation.

1954

Robert E. Price has been appointed a member of the Texas Governor's Committee on Employment of the Handicapped and is serving as Chairman of its Legislative and Legal Awareness subcommittee.

1958

Jerry Lastelick . . . is still living.

1959

Bobby D. Dyess has been elected President of the American Counsel Association at a recent ABA meeting in Dallas.

Paul W. Goodwin recently returned from Houston to Dallas as the Office Manager for the Texas Industrial Accident Board.

1961

Carl W. Friedlander has joined with **Richard E. Whinery '64**, to form the firm of Friedlander and Whinery in Richardson.

Ira A. Whitenberg, Jr. has served as President of the North Texas Chapter of the National Contract Management Association for 1978-79. He is now serving as the Association's National Director.

1962

Kathleen Sauerbrunn is Associate General Counsel for Regulatory Programs at the Department of Housing and Urban Development.

1963

Alton W. Ashworth, Jr. became the first President of American Technological University located in Killeen on September 1, 1978.

Roy J. True has formed The True Firm, a professional corporation on February 1, 1979. Associated with the firm are **Stephen R. Bishop '75**, and **Hal E. Anderson, Jr. '72**.

Frank S. Vaden, III has established a firm for the practice of law with **Norman T. Reynolds** under the firm name of Vaden & Reynolds, P.C. in Houston.

1965

C. Alan Ferguson was recently appointed Vice-President, General Counsel and Secretary of Government Personnel Mutual Life Insurance Company in San Antonio.

C. L. (Mike) Schmidt served as a member of the teaching faculty at the National Institute for Trial Advocacy held June 18 - July 6, 1979 in Boulder, Colorado.

1966

Scott Magers has been assigned as Chief of the Military Personnel Branch, Litigation Division, office of the Judge Advocate General of the Army. He is living in Springfield, Virginia.

Donald R. Scoggins has been appointed to the Criminal Law Advisory Commission of the Texas Board of Legal Specialization.

1967

Patrick O. Waddel of Sonberg & Waddel of Tulsa, Oklahoma is teaching a Corporate Planning Seminar as an Adjunct Professor at the University of Tulsa School of Law.

1969

David L. Gleason began his four year term as Judge of the County Court at Law of Potter County in January, 1979. He and his wife also announce the birth of their daughter, Katherine Elizabeth, born on March 12, 1979.

R. Fred Hosey has been elected corporate secretary of Commonwealth Oil Refining Company, Inc. (Corco), located in San Antonio.

James B. Martin opened his own office for the general practice of law in Dallas.

1970

Kirby Brant was recently appointed leader of the General Accounting Office investigating team questioning how the Department of Energy contributes to U.S. energy policy.

S. Price Smith, Jr. and **Gene Douglass '68** have formed the firm of Smith & Douglass in Wichita Falls.

1971

Al Ellis has become certified as a civil trial and personal injury specialist by the Texas Board of Legal Specialization.

Gary D. Huselton has formed the CPA firm of Huselton, Morgan & Cade specializing in tax in Dallas.

Richard D. Monroe was recently named First Assistant Regional Counsel of the Department of Energy for the Southwestern District, Region VI with headquarters in Dallas.

1972

William F. Carroll has joined the Dallas firm of Coke & Coke and was elected Vice President of the Dallas Association of Young Lawyers.

LCDR Donald R. Patterson has been assigned to the Naval Legal Service Office at Subi Bay in the Philippines for a two year tour of duty.

John D. Solana has formed John Solana and Associates, a public accounting firm in Dallas.

1973

Scott L. Campbell is associated with the Dallas firm of Moore & Peterson.

Dale L. Gross is a candidate for Florida State Representative in the 1980 election. Mr. Gross, a Republican, also is active in civil affairs in the St. Petersburg area.

Thomas E. Kurth became a partner in the Dallas firm of Seay, Gwinn, Crawford Mebus & Blakeney on January 1, 1979.

Michael D. Minogue has been named Dallas and East Texas Divisional Manager of International Diamond Corporation, which deals in investment-grade diamonds, on August 1979.

Joseph B. Morris became a partner in the Dallas firm of Turner, Rogers, Sailors, Jordan & Calloway on January 1, 1979.

1974

James W. Massie, III, became a partner in the Dallas firm of Kolodey & Thomas on January 1, 1979.

Laurence B. Vineyard, Jr. has been a partner with the Dallas firm of Jenkins Gilchrist.

1975

Joseph (Jay) V. Gibson served his first term as State Representative from District 73 in the 66th Legislature. He is a sole practitioner in Odessa.

Richard D. Greene has become a partner in the Wichita, Kansas firm of Morris, Laing, Evans, Brock & Kennedy.

Russell J. Light has joined the Law Department of the Champlin Petroleum Company and will practice Environmental Law.

Albert C. Mettrailer is practicing Patent Law with the Dallas firm of Hubbard, Thurman, Turner, Tucker & Glaser.

Marjorie B. Ulman is in the Hearing Division of the Office of the Executive Legal Director of the Nuclear Regulatory Commission and represents the NRC staff in licensing proceedings for nuclear power plants.

1976

Hubert A. Crouch is an associate in the litigation department of the Dallas firm Gardere, Wynne, Jaffee & DeHay.

Bruce Love is with the Federal Maritime Commission, Bureau of Hearing Counsel.

James C. Norman is associated with the San Antonio firm of Cox, Smith, Smith, Hale & Guenther, Inc. practicing primarily real estate law.

Richard R. Hayslett is now a partner in the firm of Woodburn, Sullivan and Hayslett in Dallas.

Larry B. Lipe is presently associated with the firm of Hall, Estill, Hardwick, Gable, Collingsworth and Nelson in Tulsa, Oklahoma.

Alan E. Whitehead was appointed District Public Defender for the Ninth Judicial District of New Mexico on September 25, 1978.

Tom Wilson will become a partner in the firm of Keck, Barnes and Wilson in Dallas in January, 1980.

Steven D. Wolens has opened his own law office in Dallas.

1977

David R. Glendinning has been named Special Agent in Charge of the Air Force Office of Special Investigation (OSI) at Dover, Delaware and is responsible for conducting specialized fraud, criminal and counterintelligence investigations in Delaware and Maryland.

Susan Mead of Dallas opened her own law office and specializes in Real Estate Preservation and Zoning.

Ann P. VanGaasbeek has joined the Office of Regional Counsel for the Interstate Commerce Commission in Fort Worth.

1978

James S. Bryant received an M.A. in History from Brandeis University and studied Constitutional Law at Harvard Law School in 1978-79. More recently he entered the private practice of law in Enid, Oklahoma.

Janice E. Carpi is practicing law with the Dallas firm of Wesner, Wylie & Pleasant.

Robert W. Fischer has accepted the position of Assistant Professor at Penn State University. He will teach Business Law, Antitrust and Corporations during the Spring Semester, 1980.

George M. Yarbrough, Jr. is associated with the Dallas firm of Pelletier, Dickens and Newsom and works in the areas of estate planning, professional incorporations and general corporate law.

Joe Yastrow is practicing labor law with the Chicago firm of Seyfarth, Shaw, Fairweather & Geraldson.

BIRTHS

R. Fred Hosey '69 and his wife Barbara proudly announce the birth of their first son, Ross Fredrick, on July 17, 1979.

J. Anthony Patterson, Jr. '73 and his wife announce the birth of their third child, William Britt, on May 24, 1979.

Kenneth K. Stephens '75 and his wife are the proud parents of a daughter, Courtney Lee, born March 26, 1979. Their first daughter, Kimberly Brooke, was born June 30, 1978.

Barton R. Bentley '76 and his wife became the proud parents of a daughter, Brooke Marie, born on June 13, 1979.

Hubert A. Crouch '76 and his wife are the proud parents of a son, Hubert Jamison, born on November 10, 1978.

Bruce Love '76 and his wife are the proud parents of a son, Andrew Scott, born November 10, 1978.

Kenneth H. Molberg '76 and his wife Linda are proud to announce the arrival of their baby boy, Collin Michael, born July 21, 1979.

MARRIAGES

James S. Bryant '78 to Ann Alice Peterson

Janice E. Carpi '78 to James D. Webb IV, '80

Jeanne Johannes '78 to Arthur C. Templeton, Jr.

(continued from page 13)

Faculty Notes —

Professor John E. Kennedy spoke at the program, "Future of Federal Practice," at the Federal Bar Association's 1979 Annual Convention in San Antonio in September. He also inspected the William Mitchell College of Law in St. Paul for the Association of American Law Schools in September.

Professor Henry J. Lischer spoke at the October Estates, Gifts and Trusts Conference of Tax Management, Inc. in Denver. His speech concerned gifts to minors.

Professor Joseph W. McKnight spoke in October on techniques for the division of marital and non-marital property at a matrimonial lawyers' seminar in Minneapolis, and on revisions of the Uniform Texas Family Code at a regional hearing of the Judiciary Committee of the Texas House of Representatives in Dallas. In October, he spoke at the annual meeting of the American Society of Legal History in Williamsburg, Pennsylvania.

Professor J. Scott Morris spoke at the Utah Tax Conference in Salt Lake City in November.

Professor Thomas G. Pelham has published a book, *State Land Use Planning and Regulation*, in October, 1979. Pelham also delivered a speech in October at a symposium on Community Issues at the World Trade Center in Dallas concerning growth policies in the 1980's.

Professor Jeswald W. Salacuse lectured at the Harvard Law School in a training program for foreign lawyers on foreign investment during the Summer of 1979. Salacuse also was selected Chairman of the Committee on Law in the Middle East of the Social Science Research Council.

Professor Daniel W. Shuman has written an article in Volume 55 of the *Notre Dame Lawyer* entitled, "The Road to Bedlam: Evidentiary Guideposts with Civil Commitment Proceedings."

Professor Ellen K. Solender attended the A.A.L.S. workshop on the "Professional Development of the Woman Law Teacher" held in Cincinnati in October.

Dean Ad Interim A. J. Thomas, Jr. attended the symposium on "Doing Business in Mexico" in Mexico City on October 3-7, 1979. The symposium was sponsored by the Center for Advanced Professional Development by the SMU School of Law.

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*"History is a voice forever sounding
across the centuries the laws of
right and wrong. Opinions alter,
manners change, creeds rise and fall,
but the moral law is written on
the tablets of eternity. For every false
word or unrighteous deed, for
cruelty and oppression, for lust or vanity,
the price has to be paid at last; not
always by the chief offenders, but paid
by someone. Justice and truth alone
endure and live. Injustice and
falsehood may be long-lived, but
doomsday comes at last to them,
in French Revolutions and other
terrible ways." James Anthony Froude*

